

**ENTERED**

December 14, 2015

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

MICHAEL GARRETT,

§

§

Plaintiff,

§

VS.

§

CIVIL ACTION NO. 2:15-CV-403

§

WILLIAM STEPHENS, *et al*,

§

§

Defendants.

§

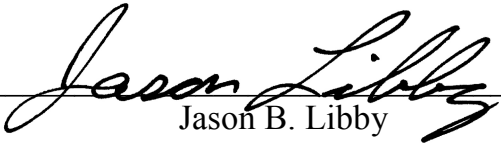
**ORDER**

Pending is Petitioner's Motion for Default Judgment. (D.E. 11). Petitioner asserts he is entitled to relief because Defendants have failed to respond to his complaint in a timely manner. However, Defendants have not yet been served with the complaint. Therefore, the Motion is **DENIED** without prejudice. If service is ordered and Defendants fail to file an answer, Plaintiff may refile the motion.

Under the Prison Litigation Reform Act, Pub. L. No. 104-134, 110 Stat. 1321 (1996), any prisoner action brought under federal law must be dismissed if the complaint is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant immune from such relief. *See* 42 U.S.C. § 1997e(c); 28 U.S.C. §§ 1915(e)(2), 1915A. Plaintiff's action is subject to screening regardless of whether he prepays the entire filing fee or proceeds as a pauper. *Ruiz v. United States*, 160 F.3d 273, 274 (5th Cir. 1998)(per curiam).

On October 29, 2015, a *Spears*<sup>1</sup> hearing was conducted. On December 3, 2015, a Memorandum and Recommendation (“M & R”) was entered recommending Plaintiff’s action be dismissed pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915(A)(b)(1) and counted as a strike pursuant to 28 U.S.C. § 1915(g). (D.E. 10). Plaintiff was given fourteen (14) days to file objections, if any, to the M & R. (D.E. 10, Page 16). To date, no objections have been filed. The Court extends Plaintiff’s deadline for filing objections. If Plaintiff wishes to file objections, he should do so before **December 28, 2015**.

ORDERED this 14th day of December, 2015.

  
Jason B. Libby  
United States Magistrate Judge

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<sup>1</sup>*Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985)